IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

Appeal No.333 of 2006
in
Summons for Judgment No 565 of 2005
in
Sum Suit No.272 of 2005

Girija Shankar Lakhotia ..**Appellant**
vs
Poonam Property Coop Housing Society Ltd. ..**Respondents**

Ms Aradhana Latne for the appellant.
Mr Manoj Dalvi for the respondents.

CORAM: KSHITIJ R. VYAS, C.J., &
ABHAY S. OKA,J.

DATE: JULY 11, 2006.

P.C.:-

The appellant has challenged the order dated 20th February, 2006 passed in Summons for Judgement No. 565 of 2005 in Suit No.272 of 2005. The plaintiff filed the suit for recovery of a sum of Rs.51,582.81. The claim was based on the five dishonoured cheques fo Rs.9,732.60 each with interest. The cheques were issued towards the dues of the plaintiff society. The learned single Judge was of the view that there is no defence and, therefore, passed a decree as prayed for.

On 13th June, 2006 on a statement made by the learned counsel for the appellant , we directed the appellant to deposit Rs.51,582.81 being the claim of the society. It is stated by the learned counsel for the appellant that as per the said order the learned counsel for the appellant has deposited that amount. In view of this development, we allow this appeal and set aside the impugned order daed 20th February, 2006. We accordingly grant unconditional leave to the appellant to defend the suit since the appellant has deposited the amount in question.

In the peculiar facts and circumstances of the present case we permit the plaintiff society to withdraw the amount so deposited by the appellant on furnishing bank guarantee to the satisfaction of the Prothonotary and Senior Master, High Court, Bombay.

In view of the disposal of the main appeal, no orders on the notice of motion. Hence same stands disposed of.

CHIEF JUSTICE

ABHAY S. OKA, J.